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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 02-00225 DAE
)	
Plaintiff,)	COURT'S REVISED SETTLED
)	JURY INSTRUCTIONS;
vs.)	CERTIFICATE OF SERVICE
)	
ANDY S.S. YIP, (01))	
BRENDA M. O. CHUNG, (02))	
)	Trial Date: 9/10/07
Defendants.)	Time: 9:00 a.m.
)	Judge: David Alan Ezra

COURT'S REVISED SETTLED JURY INSTRUCTIONS

The United States submits the attached Court's revised
settled jury instructions.

DATED: Honolulu, Hawaii, September 10, 2007.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By /s/ Leslie E. Osborne, Jr.
LESLIE E. OSBORNE, JR.
Assistant U.S. Attorney

(Court's Settled Version of Government's
Proposed Jury Instruction No. 13)

COURT'S INSTRUCTION NO. _____

The Defendant Andy S.S. Yip is charged alone with
filing a false tax return in violation of Section 7206(1) of
Title 26 of the United States Code, for the calendar year 1999.

That statute provides:

"Any person who willfully makes and subscribes any
return, statement, or other document, which contains or
is verified by a written declaration that it is made
under the penalties of perjury, and which he does not
believe to be true and correct as to every material
matter, shall be guilty."

(Court's Settled Version of Government's
Proposed Jury Instruction No. 15)

COURT'S INSTRUCTION NO. _____

A matter is material if it has a natural tendency to influence or was capable of influencing or affecting the ability of the IRS to audit or verify the accuracy of a tax return and accompanying schedules required to be filed with the IRS.

(Court's Settled Version of Government's
Proposed Jury Instruction No. 16)

COURT'S INSTRUCTION NO. _____

To act willfully means to act voluntarily and
deliberately with the intention to violate a known legal duty a
defendant's conduct is not willful if the defendant acted through
negligence, inadvertence or mistake.

(Court's Settled Version of Government's
Proposed Jury Instruction No. 18)

COURT'S INSTRUCTION NO. _____

A loan is an agreement, either express or implied, whereby one person advances money to the other and the other agrees to repay it upon such terms as to time and rate of interest, or without interest, as the parties may agree. In classifying a loan, you must examine the transaction as a whole. The conventional test is to ask whether, when the funds were advanced, the parties actually intended repayment.

You may consider other factors in determining whether or not the parties entered into a loan but none of them are required for you to consider a transaction to be a loan: (1) whether the promise to repay is evidenced by a note or other instrument; (2) whether interest was charged; (3) whether a fixed schedule of repayments was established; (4) whether collateral was given to secure payment; (5) whether repayments were made; (6) whether the borrower had a reasonable prospect of repaying the loan and whether the lender had sufficient funds to advance the loan; and (7) whether the parties conducted themselves as if the transaction were a loan. The above factors are not exclusive and no single factor is dispositive except the intention of the borrower to repay.

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COURT'S INSTRUCTION NO. _____

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"Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty."

COURT'S INSTRUCTION NO. _____

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COURT'S INSTRUCTION NO. _____

To act willfully means to act voluntarily and deliberately with the intention to violate a known legal duty a defendant's conduct is not willful if the defendant acted through negligence, inadvertence or mistake.

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CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at the last known address:

Served Electronically through CM/ECF:

Howard T. Chang howardchang.crimtaxatty@hawaiiantel.net
Attorney for Defendant
ANDY S.S. YIP

Howard K. K. Luke howardkkluke@hawaii.rr.com
Attorney for Defendant
BRENDA M. O. CHUNG

DATED: Honolulu, Hawaii, September 10, 2007.

/s/ Cheri Abing